

MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK

**SPECIAL SESSION
June 28, 2006**

The Board of Supervisors of Maricopa County, Arizona convened at 11:00 a.m., June 28, 2006, in the Tom Sullivan Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Don Stapley, Chairman, District 2; Fulton Brock, Vice Chairman, District 1; Andy Kunasek, District 3 (attended telephonically), Max W. Wilson, District 4, and Mary Rose Wilcox, District 5. Also present: Lori Pacini, Deputy Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Manager; and Dean Wolcott, Outside Counsel. Votes of the Members will be recorded as follows: aye-no-absent-abstain.

EXECUTIVE SESSION CALLED

Pursuant to A.R.S. §38-431.03, et.al., motion was made by Supervisor Brock, seconded by Supervisor Wilson, and unanimously carried (5-0) to recess and reconvene in executive session for the purpose of obtaining legal advice from the Board's attorney in reviewing the matter listed below pursuant to the listed statutory references. All members remained in session when the meeting reconvened, Supervisor Kunasek was present telephonically.

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; CONTRACTS SUBJECT TO NEGOTIATION – ARS §38-431.03(A)(3) AND (A)(4)

E-1. Dr. Dowling v. Maricopa County Board of Supervisors, et al, LC-2006-000370-001-DT, and legal advice and options concerning County Regional School District #509 funding and contracts.

Sandi Wilson, Deputy County Manager
Brian Hushek, Deputy Budget Director
Tom Manos, Chief Financial Officer
Tom Irvine, Outside Counsel
Fred Rosenfeld, Outside Counsel
LeeAnn Bohn, Budget Manager

RECESS EXECUTIVE SESSION AND RECONVENE OPEN SESSION

Chairman Stapley reconvened the Board in open session at 12:08 p.m. to vote on the following matters. Supervisor Kunasek was present telephonically.

RESOLUTION RELATED TO COUNTY REGIONAL SCHOOL DISTRICT #509

Item: Consideration and possible adoption of Resolution No. 5 related to County Regional School District #509 which concerns A.R.S. §§15-308 and 1001, enforcement of the March 2, 2006 Assistance Package Agreement, contracts, existing litigation, the District's debt and related matters. (ADM3814-002)

**RESOLUTION # 5 OF THE BOARD OF SUPERVISORS
OF MARICOPA COUNTY
CONCERNING THE MARICOPA COUNTY
REGIONAL SCHOOL DISTRICT NO. 509**

WHEREAS, the Maricopa County School Superintendent ("CSS") established an accommodation school district called the Maricopa County Regional School District No. 509 ("District") which has been in operation for many years; and

WHEREAS, Maricopa County, through the Board of Supervisors ("Board"), has offered services pursuant to A.R.S. § 15-308.B which have been provided by the District (homeless children or alternative education

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programs), and

WHEREAS, the District's current fiscal deficit has caused this Board to review the wisdom and necessity for offering A.R.S. § 15-308.B services, and

WHEREAS, the Board has adopted a comprehensive fiscal resolution on February 1, 2006 (Resolution # 1) which was a first step in dealing with the fiscal crisis of the District, and

WHEREAS, the Board has adopted an Assistance Package Agreement for the District on March 2, 2006 (Resolution # 2), and

WHEREAS, the Governing Board of the District adopted Resolution # 2 on March 3, 2006, and

WHEREAS, notwithstanding the Assistance Package Agreement the District has operated at a cash deficit, in that expenditures exceeded revenues available for their payment. In addition, fiscal deficits from past fiscal years have not been addressed by either the CSS or the District. The District has an accumulated deficit and from all available evidence this deficit will grow substantially this fiscal year and the District has put forward no plan to deal with the deficit and other fiscal issues.

WHEREAS, Resolution # 2 called for a budget for the District to be agreed to by April 3, 2006, and no structurally balanced budget was presented, what was presented exceeded the State law Revenue Control Limit, it required a significant subsidy from Maricopa County, provided no supplemental documentation justifying or supporting the subsidy request and it was not approved by action of the District Governing Board, and

WHEREAS, this Board determines that the Governing Board of the District has not been properly managing the District, and

WHEREAS, this Board determined that in order to insure that needed services and educational opportunities are available to children who need those services, Resolution # 2, provided for issuance of a Request for Information ("RFI") which resulted in numerous proposals that would likely have resulted in a better and less expensive way of providing District services, and

WHEREAS, the review of the proposals indicates that competent and experienced public and charter schools are available to provide A.R.S. § 15-308.B educational services, and

WHEREAS, as a result of the RFI process, educational providers have stated that the educational services can be provided at a cost lower than that of the District with equal or better quality, and

WHEREAS, the RFI process demonstrated that the expenses requested by the District in its April 4, 2006, letter were not necessary due to the availability of educational providers willing to provide management and educational services to the District at costs less than those proposed by the District, and

WHEREAS, the District opted out of the RFI process and refused to supply all information requested by the responders, therefore, the opportunities revealed in the RFI responses were not realized, and

WHEREAS, the Board has learned that educational services provided by the District are also being provided by school districts or charter schools, and

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WHEREAS, it is necessary to take these actions immediately to assure the fiscal soundness of the District for the remainder of this school year and in order to plan for the fiscal year 2006 - 2007 budget, and

WHEREAS, the Board adopted a Resolution to no longer offer A.R.S. § 15-308.B services on April 7, 2006 (Resolution # 3) after earlier entering into Resolution # 2 which states that in the absence of an agreement no such services will be offered after June 30, 2006, and

WHEREAS, the Board is unable to agree to the terms of an Inter-governmental Agreement ("IGA") with Sandra Dowling, County School Superintendent ("CSS") and member of the District's governing board, and

WHEREAS, the Maricopa County Internal Audit Committee reported, in its audit published May 31, 2006 (attached hereto), that it found issues and violations within the District regarding: Operating at a deficit, Procurement, Contract monitoring, Vendor performance, Accounts payable, Facilities management, Leasehold improvements, Recruitment, Human resources, Personnel, Payroll, Conflicts of interest, Fixed assets, Travel expenses, Cell phone contracts, a one person Governing board, and accounting for donations, and

WHEREAS, children attending the District's educational programs are performing at a level inferior to that of children with the same demographic characteristics who attend nearby public schools, and

WHEREAS, the education offered by the District fails to meet the standards of No Child Left Behind and other measures (see the School AYP Determinations 2004 - 2005 and testimony of Dr. Robert Donofrio, Dr. Kit Wood and Dr. Nancy Haas, as set forth in the minutes of the April 7, 2006, Special Session of the Board), when other educational providers to the same demographic population better meet those standards, and

WHEREAS, the above referenced efforts and investigations demonstrate that the District does not need any financial assistance from Maricopa County if it was properly managed.

NOW THEREFORE, BE IT RESOLVED THAT:

1. A.R.S. § 15-1001(A)(5) states that the "board of supervisors" shall budget for "necessary expenses for the establishment and conduct of accommodation schools pursuant to section 15-308." Based upon the foregoing information which the Board adopts as findings of fact and conclusions of law, the Board hereby finds that there are no "necessary" A.R.S. § 15-308(B) expenses to be funded by Maricopa County for fiscal year 2006-07.
2. After June 30, 2006, the board of Supervisors shall not provide for any expenses of the District without an inter-governmental agreement, with the CSS, that sets forth the County's responsibility, if any, for financial contributions to the accommodation school budget, any conditions related to the expenditures, repayment of the District's debt and any financial reporting required of the CSS, all as required by newly enacted A.R.S. § 15-308(C).
3. In order to comply with the requirement of A.R.S. § 15-1001(A)(5) to only provide for "necessary" expenses, the Board requires continuous updates and information, from the District and CSS, regarding the District's finances.
4. The County Manager and all other officers and officials of the County are directed to take all

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necessary actions to secure any County assets currently being used by the District and recommend whether or not the District should be allowed to continue to use those assets. The County Manager is also directed to take all actions necessary, including making demands and/or commencing any necessary legal proceedings to enforce Section 6.1 of Resolution # 2 and all terms and conditions of Resolutions 1, 2 and 4 concerning the District.

DATED this 28th day of June, 2006.

/s/ Don Stapley, Chairman of the Board

ATTEST:

/s/ Fran McCarroll, Clerk of the Board

Tom Irvine explained several amendments to draft Resolution #5. These changes included the removal of Paragraph 3 on page 3 and subsequent renumbering of Paragraphs 4 and 5 to Paragraphs 3 and 4, and wording changes in two other paragraphs, as follows:

Page 2, bottom of page of the Resolution

WHEREAS, the Maricopa County Internal Audit Committee reported, in its audit published May 31, 2006, (**ATTACHED HERETO**) that it found issues "**AND VIOLATIONS**" within the District

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5. Pursuant to earlier resolutions, the County Manager is ~~ordered and~~ directed to take

Motion was made by Supervisor Wilcox, seconded by Supervisor Wilson, and unanimously carried (5-0) to adopt Resolution No. 5 related to County Regional School District #509, as given above, and to include all amendments as explained by Tom Irvine and noted above.

REGIONAL SCHOOL DISTRICT #509 VOUCHERS

Item: The Board of Supervisors, pursuant to its authority granted in A.R.S. §15-1001, will consider for approval vouchers presented by the County School Superintendent of Maricopa County to draw warrants on the County Treasurer against Maricopa County Regional School District #509 School District funds for necessary expenses against the school district and obligations incurred for value received in services as shown in the Vouchers. (ADM3814-003)

The Board of Supervisors may consider ratifying any Maricopa County Regional School District #509 vouchers and/or warrants approved in accordance with the procedures of A.R.S. §15-321 since the last meeting of the Board of Supervisors. The Board of Supervisors may hear staff reports on the vouchers and warrants being considered. The Vouchers are on file in the Maricopa County's Clerk of the Board's office and are retained in accordance with ASLAPR approved retention schedule. (ADM3814-003)

Staff may update the Board of Supervisors on regional schools operations and finances. (ADM3814-005)

No Vouchers were received for approval or ratification at this time, no staff updates were presented, and this item was not considered.

**~ Supervisor Kunasek terminated the telephonic connection ~
~ Supervisor Wilson left the meeting ~**

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EXECUTIVE SESSION RECONVENED

Chairman Stapley reconvened executive session to continue discussion on the above items.

MEETING ADJOURNED

At the conclusion of discussion on the matters listed above and there being no further business to come before the Board, the meeting was adjourned.

Don Stapley, Chairman of the Board

ATTEST:

Lori Pacini, Deputy Clerk of the Board